

**UNITED STATES DISTRICT COURT
FOR THE DISTRICT OF NEW MEXICO**

JUAN ANTONIO GUAJARDO LOPEZ,

Plaintiff,

v.

No. 1:22-cv-36

HARPREET SINGH and EXCALIBUR TRUCKING, LLC,

Defendants.

NOTICE OF REMOVAL

COMES NOW Defendant Excalibur Trucking, LLC (“Excalibur”), by and through its counsel of record, Riley | Keller | Alderete | Gonzales (Mark J. Riley and Spirit A. Gaines), and hereby gives notice of removal of this matter to the United States District Court for the District of New Mexico. Removal is based on diversity. In support, Excalibur states the following:

1. Pursuant to 28 U.S.C. §§ 1332, 1441 and 1446, Excalibur hereby gives notice of removal of all counts and claims asserted by the Plaintiff in the civil action filed in the First Judicial District, County of Rio Arriba, State of New Mexico, styled: *Juan Antonio Guajardo Lopez v. Harpreet Singh and Excalibur Trucking, LLC*; Cause No. D-117-CV-2021-00428. Pursuant to 28 U.S.C. § 1446(a), copies of all process, pleadings and orders served to date are attached hereto as Exhibit A.
2. Plaintiff’s Original Complaint for Personal Injury Damages (“Complaint”) was filed in the First Judicial District Court on December 14, 2021. *See Exhibit A*. Defendant Excalibur has not been served with Plaintiff’s Complaint, within the meaning of 28 U.S.C. §§1446(b)(1). Upon information and belief, Defendant Harpreet Singh (“Singh”) has not been served. The First Judicial Court record states neither defendant has been served. *See Exhibit B*, Court Registry, First Judicial District.

3. This is an action of a civil nature in which the United States District Court has diversity jurisdiction pursuant to 28 U.S.C. § 1332(a) because there is complete diversity of citizenship between Plaintiff and Defendants, and the amount in controversy exceeds \$75,000.00.

- a. Plaintiff Juan Antonio Guajardo Lopez alleges in paragraph 1 of his Complaint that he is a resident of Rio Arriba County, New Mexico. Therefore, Plaintiff is a citizen of New Mexico. *See Exhibit A, Complaint, ¶1.*
- b. Defendant Harpreet Singh is a resident of the state of California, therefore, Defendant Singh is a citizen of California. *See Exhibit A, Complaint, ¶2.*
- c. Defendant Excalibur Trucking, LLC is a corporation, whose principal place of business is in California, therefore, Defendant Excalibur is a business residing in California. *See Exhibit A, Complaint, ¶3.*

4. A reasonable estimate of the amount that will be put at issue in the course of this litigation is in excess of \$75,000.00,¹ exclusive of interest and costs.

- a. This case involves an actual controversy between the parties concerning the liability of and amount of damages sustained by Plaintiff when he was involved in an automobile collision with Singh, who was driving the vehicle owned by Excalibur. *See generally Exhibit A, Complaint.*
- b. Without admitting the validity of any Plaintiff's allegations, the amount that will be put at issue in this case will likely exceed the jurisdictional minimum because Plaintiff seeks to recover for the following:

¹ *Dart Cherokee Basin Operating Co., LLC v. Owens*, 574 U.S. 81 (2014) (holding “a defendant’s notice of removal need include only a plausible allegation that the amount in controversy exceeds the jurisdictional threshold. Evidence establishing the amount is required by § 1446(c)(2)(B) only when the plaintiff contests, or the court questions, the defendant’s allegation”). *See also Frederick v. Farmers Underwriters Ins. Co.*, 683 F.3d 1242, 1247 (10th Cir. 2012) (A defendant is “entitled to present its own estimate of the stakes; it is not bound by the plaintiff’s estimate.” Quoting *Back Doctors Ltd. v. Metropolitan Property and Cas. Ins. Co.* 7th Cir. 2011)).

- 1) Physical injury;
- 2) Medical expenses;
- 3) Lost wages;
- 4) Pain and suffering; and
- 5) Punitive damages.

See generally Exhibit A, Complaint, ¶¶30-36.

5. There is no other defendant named in Plaintiff's Complaint who has been served.

Accordingly, no other party other than the undersigned defendant is required to consent to the removal of this case to the United States District Court for the District of New Mexico, pursuant to 28 U.S.C. §1446(b)(2).

6. Pursuant to 28 U.S.C. § 1446(d), written notice of removal has been given to all adverse parties and a copy of this Notice of Removal has been filed with the Clerk of the First Judicial District Court, County of Rio Arriba, State of New Mexico.

Respectfully submitted,

RILEY | KELLER | ALDERETE | GONZALES

By: /s/ Mark J. Riley

MARK J. RILEY
SPIRIT A. GAINES
3880 Osuna Rd., NE
Albuquerque, NM 87109
(505) 883-5030
mriley@rileynmlaw.com
sgaines@rileynmlaw.com

Attorneys for Defendant Excalibur Trucking, LLC

CERTIFICATE OF SERVICE

The undersigned certifies that on January 14, 2022, the foregoing was electronically filed through the CM/ECF filing system, which caused all counsel of record to be served by electronic means.

/s/ Mark J. Riley
MARK J. RILEY